

SINGLE BENCH

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C.F. 100 (3)

**IN THE HIGH COURT OF CHHATTISGARH AT
BILASPUR.**

IN THE MATTER OF W.P. NO. 2854 /2004

PETITIONER

:

Dr. Abdul Quadeer, S/o Late
M.A. Qaiyum, Registrar,
Chhattisgarh Pharmacy,
Council Raipur (C.G.)

P.R. No. 2761/05
Presented by Shri. Ravi Mishra
dated. 21/11/05

VERSUS

RESPONDENTS

1) State of Chhattisgarh,
Through Secretary, Health,
D.K. S. Bhawan, Raipur (C.G.)

2) Chhattisgarh Pharmacy
Council, through Registrar
Chhattisgarh Pharmacy
Council, Raipur.

3) Dr. T.R. Sahu REGISTRAR [DESIGNATED]
C/O CHHATTISGARH PHARMACY COUNCIL
RAIPUR (C.G.)

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**PETITION UNDER ARTICLES 226/227 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF
WRIT IN NATURE OF MANDAMUS, CERTIORARI
AND/ OR ANY OTHER WRIT OF LIKE NATURE.**

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HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION NO.2854 OF 2005

Petitioner : Dr. Abdul Quadeer

versus

Respondents : State of Chhattisgarh and others

Present : Mr. A.K.Yadav, counsel for the petitioner.
Mr. Satish Gupta, Deputy Government Advocate and Ms.
Sunita Jain, Panel Lawyer for the State/respondent
No.1.
Mr. Sameer Behar, counsel for respondent No.2.
Mr. Rajeev Shrivastava, counsel for respondent No.3.

ORDER

(Passed on 9th Day of January, 2007)

The petitioner, who was retired as Chief Medical Officer, was appointed as Registrar, Pharmacists' Registration Tribunal (henceforth 'the Registration Tribunal') on temporary basis by order dated 22-8-2003 (Annexure R-2/1). It was made clear that the petitioner would not be a Government servant, but, an employee of the Registration Tribunal. Thereafter, by order dated 17-6-2005 (Annexure P-1), one Dr. T.R.Sahu, retired Civil Surgeon was appointed in accordance with the provisions of Section 26 of the Pharmacy Act, 1948 (henceforth 'the Act') and the services of the petitioner as Registrar on temporary basis came to an end.

2. The petitioner has impugned the order dated 17-6-2005 (Annexure P-1) in this petition. The main ground of the challenge is that the petitioner, who is a retired Chief Medical Officer, possesses all the required qualification for being appointed as Registrar of the Registration Tribunal in accordance with the provisions of Section 26 of the Act. It was further pointed out that there is no other reason, whereby the services of the petitioner was terminated and a new incumbent, i.e., respondent No.3 was appointed, who is also a retired Civil Surgeon.

3. It appears that the appointment of the petitioner is not in accordance with the provisions of Section 26 of the Act; firstly on the ground that it is contrary to the Constitutional Scheme and secondly, the appointment was not made after inviting applications from the similarly situated qualified persons for being appointed on the post of the Registrar.

4. Learned counsel appearing for the petitioner points out that even the appointment of respondent No.3 was not in accordance with the Constitutional Scheme.

5. Be that as it may, since the appointment of the petitioner was not in accordance with the Constitutional Scheme, as such the petitioner has no right to the post and in view of the well settled principle of law, as laid down by the Supreme Court in several decisions recently, the petitioner has no right to reinstatement, regularisation or continuation in the service.

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6. The petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Gopal